

Frequently Asked Questions

Zoning Amendments to Codify Dover Amendment Reviews

Why are the zoning amendments to codify the Dover Amendment important to Arlington? The “Dover Amendment” refers to certain protections that religious, non-profit educational, and childcare facilities receive under the Massachusetts Zoning Act, [General Law, chapter 40A, section 3](#) which are not clearly prescribed for the Zoning Bylaw. For example, the tables that identify what uses are allowed in what zoning districts appear to indicate that these types of uses require a special permit or are prohibited in the Town of Arlington. The state law limits review of religious, non-profit educational, and childcare facilities to the reasonable regulation of bulk and height of structures and in determining yard sizes, lot area, setbacks, open space, parking, and building coverage requirements. This limitation is described in [Section 3.4 of the Zoning Bylaw](#), but being associated with the Arlington Redevelopment Board’s (ARB) Environmental Design Review seems to indicate that a special permit is required.

How will the proposed revisions to the Zoning Bylaw address this problem? The proposed amendments make clear that religious, non-profit educational, and childcare facilities do not need to seek an Environmental Design Review special permit from the ARB. The proposed amendments outline a procedure for review that was developed in consultation with Arlington Town Counsel in a new bylaw section.

What are the proposed amendments? [Article 20](#) includes the following elements:

- Removes the requirement for an Environmental Design Review special permit from the ARB;
- Creates a new section, Section 3.5, that codifies how the review is limited to reasonable regulation of bulk and height of structures and in determining yard sizes, lot area, setbacks, open space, parking, and building coverage requirements;
- Sets out the expectations for Town Officials and applicants; and
- Clarifies the notes within the use tables to refer readers to Section 3.5 where an applicant can clearly see the review requirements.

What is the review process for religious, non-profit educational, and childcare facilities? The applicant must first demonstrate to the Building Inspector that the proposed use of the property or structures is for a religious, non-profit educational, or child care purpose, or appropriate combination thereof. The applicant then must demonstrate to the Department of Planning and Community Development (DPCD) that a given regulation should be waived, reduced, or altered as it would be otherwise unreasonable. DPCD must apply only those regulations that serve a legitimate municipal purpose as described in the Zoning Bylaw. Unreasonable can be described as detracting from the usefulness of a structure, imposing excessive costs, or impairing the character of a proposed structure.

Where in Arlington can this happen? A religious, non-profit educational, or childcare facility may be established in any zoning district that requires a special permit or prohibits the use. However, if the applicant cannot successfully demonstrate that the proposed use is a religious, non-profit educational, or childcare facility and that is the primary use, a special permit and public review process would still be required or the use would be prohibited as required by the Zoning Bylaw.

How can I learn more? The Arlington Redevelopment Board will hold hearings on all of the zoning articles on the Town Meeting Warrant on Mondays in March: March 4, March 11, March 18, and March 25. The public hearings will be held in the Senior Center, 27 Maple Street, beginning at 7:30 PM. It is anticipated that the amendments related to multi-family and mixed-use will begin on March 11. Informal office hours will be held on Thursdays, March 14 and March 21, 5 PM-7 PM, in the Town Hall Annex First Floor Conference Room. Finally, the DPCD will also hold neighborhood meetings tentatively scheduled for March 28 at Peirce School, April 3 at Thompson School, April 4 at Hardy School, and April 10 at Brackett School, all beginning at 7 PM. These dates are still pending confirmation from the School Department.